

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 10/840,042  
Inventor(s) : Mark Edwin Forry, et al.  
Filed : May 6, 2004  
Art Unit : 1791  
Examiner : Dennis R. Cordray  
Docket No. : 9630  
Confirmation No. : 7766  
Customer No. : 27752  
Title : PATTERNED FIBROUS STRUCTURES

APPEAL BRIEF

Mail Stop Appeal Brief - Patents  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

This Brief is filed pursuant to the appeal from the decision communicated in the Office Action mailed on March 5, 2010.

A timely Notice of Appeal was filed on May 20, 2010.

REAL PARTY IN INTEREST

The real party in interest is The Procter & Gamble Company of Cincinnati, Ohio.

RELATED APPEALS AND INTERFERENCES

A related appeal has been filed in a continuation-in-part application of the present application. The related appeal is directed to Application No. 11/105,998. There are no other known related appeals, interferences, or judicial proceedings.

STATUS OF CLAIMS

Claims 1, 5, 7, and 12-15 are rejected.

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Claims 2-4, 6, 8-11, and 16-28 are cancelled.

Claims 1, 5, 7, and 12-15 are appealed.

A complete copy of the appealed claims is set forth in the Claims Appendix attached herein.

#### STATUS OF AMENDMENTS

A Reply After Final Rejection was filed on April 29, 2010.

#### SUMMARY OF CLAIMED SUBJECT MATTER

The present invention relates to patterned fibrous structures, especially a patterned latex-containing fibrous structure.

In one example of the present invention, as claimed in Claim 1, a sanitary tissue product (Page 11, lines 30-31) in roll form (Page 12, line 6) comprising a patterned wet laid (Page 7, lines 22-24) differential density (Page 8, lines 14-16) fibrous structure (Page 6, line 34 to page 7, line 5) comprising a first surface (Page 1, lines 31-34) and a second surface (Page 1, lines 31-34) comprising regions of high and low density relative to each other (Page 8, lines 14-16), wherein latex (Page 8, lines 23-25) that exhibits a Tg of from about -65°C to about 100°C (Page 8, lines 23-25) is present on at least one of the first and second surfaces (Page 9, lines 11-13) of the fibrous structure (Page 6, line 34 to page 7, line 5), wherein more than 50% of the total latex (Page 9, lines 14-17) present is present on the regions of high density (Page 9, lines 14-17) of the differential density fibrous structure (Page 9, lines 14-17), wherein at least one of the first and second surfaces comprises a pattern of embossments in a desired design (Page 10, line 9 to page 11, line 8), wherein one of the first and second surfaces exhibits a deformation height of at least about 1000  $\mu\text{m}$  (Page 7, lines 6-16) and the other surface exhibits a deformation height of at least about 650  $\mu\text{m}$  (Page 7, lines 6-16) and wherein the sanitary tissue product exhibits an average effective caliper that is greater than the average sheet caliper of an identical sanitary tissue product in its non-patterned form (Page 12, lines 9-11), is provided.

#### GROUND OF REJECTION TO BE REVIEWED ON APPEAL

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Claims 1, 5, 7, and 12-15 stand finally rejected under 35 U.S.C. §103(a) over U.S. Patent Publication No. 2004/0099388 to Chen et al. ("Chen") in view of U.S. Patent No. 4,507,173 to Klowak et al. ("Klowak") as evidenced by U.S. Patent No. 6,740,373 to Swoboda et al. ("Swoboda")

- i. Claims 1 and 5
- ii. Claim 7
- iii. Claim 12
- iv. Claim 13
- v. Claim 14
- vi. Claim 15

#### ARGUMENTS

Claims 1, 5, 7, and 12-15 stand finally rejected under 35 U.S.C. §103(a) over U.S. Patent Publication No. 2004/0099388 to Chen et al. ("Chen") in view of U.S. Patent No. 4,507,173 to Klowak et al. ("Klowak") as evidenced by U.S. Patent No. 6,740,373 to Swoboda et al. ("Swoboda")

- i. Claims 1 and 5

Claims 1 and 5 are rejected by the Examiner under 35 USC §103(a) as allegedly defining obvious subject matter over U.S. Patent Publication No. 2004/0099388 to Chen et al. ("Chen") in view of U.S. Patent No. 4,507,173 to Klowak et al. ("Klowak") as evidenced by U.S. Patent No. 6,740,373 to Swoboda et al. ("Swoboda"). The Examiner asserts that Chen teaches tissue products in roll form comprising a wet laid fibrous structure having a patterned three dimensional configuration of raised web portions molded into the web and projecting out of the surface. The Examiner further asserts that Chen teaches that its web is covered by an adhesive material. However, the Examiner recognizes that Chen does not teach that its adhesive material is substantially present in the high density regions of its tissue products. The Examiner asserts that Klowak teaches a fibrous tissue structure comprising a patterned web comprising a molded pattern of compressed areas (high density areas) and raised areas and a binding material applied to the surface thereof.

Appellant respectfully submits that Chen in view of Klowak as evidenced by Swoboda fails to teach each and every element of Claim 1, the independent claim, because Chen in view of Klowak as evidenced by Swoboda fails to teach a sanitary tissue product comprising a patterned wet laid differential density fibrous structure comprising latex on the surface of the fibrous structure wherein more than 50% of the latex is present on high density regions of the differential density fibrous structure. Appellant submits that Klowak clearly teaches that its binding liquid is absorbed “substantially through the web in the compressed areas.” Klowak, Abstract. Further, Klowak teaches that its binding liquid is “dispersed deeply into the compressed areas of the web.” Klowak, Col. 2, lines 24-26. Therefore, Appellant respectfully submits that Klowak fails to teach that 50% or more of its binding liquid in on the surface of the high density regions of its fibrous structure as is claimed in Claim 1. As a result, Appellant submits that Klowak fails to overcome the deficiencies of Chen.

Further, Appellant submits that Klowak cannot properly be combined with Chen to render Claim 1 obvious because the present invention as claimed in Claim 1 has overcome a long, unmet need. Klowak has been in the art for over 25 years. Appellant submits that if it was obvious to combine the teachings of Klowak with the teachings of Chen to arrive at the claimed invention, why it hadn’t been done over the past 25 years. Appellant submits that it is not obvious to one of ordinary skill in the art to combine the teachings of Klowak with the teachings of Chen.

In light of the foregoing, Appellant submits that Claim 1 is not rendered obvious over Chen in view of Klowak as evidenced by Swoboda. MPEP 2143.03. Further, Appellant submits that Claim 5, which ultimately depends from Claim 1, is not rendered obvious over Chen in view of Klowak as evidenced by Swoboda. MPEP 2143.03.

ii. Claim 7

Claim 7 is rejected by the Examiner under 35 USC §103(a) as allegedly defining obvious subject matter over Chen in view of Klowak as evidenced by Swoboda, all described above.

Appellant respectfully submits that Chen in view of Klowak as evidenced by Swoboda fails to teach each and every element of Claim 7 because Chen in view of Klowak as evidenced by Swoboda fails to teach a sanitary tissue product comprising a

patterned wet laid differential density fibrous structure comprising latex on the surface of the fibrous structure wherein more than 50% of the latex is present on high density regions of the differential density fibrous structure wherein the latex is a synthetic latex selected from the group consisting of vinyl acetates, ethylene-vinyl acetate copolymers, acrylate copolymers, styrene butadiene copolymers and mixtures thereof. Accordingly, Appellant respectfully submits that Claim 7 is not rendered obvious over Chen in view of Klowak as evidenced by Swoboda. MPEP 2143.03.

iii. Claim 12

Claim 12 is rejected by the Examiner under 35 USC §103(a) as allegedly defining obvious subject matter over Chen in view of Klowak as evidenced by Swoboda, all described above.

Appellant respectfully submits that Chen in view of Klowak as evidenced by Swoboda fails to teach each and every element of Claim 12 because Chen in view of Klowak as evidenced by Swoboda fails to teach a sanitary tissue product comprising a patterned wet laid differential density fibrous structure comprising latex on the surface of the fibrous structure wherein more than 50% of the latex is present on high density regions of the differential density fibrous structure wherein the fibrous structure exhibits an HFS absorbency of greater than about 8 g/g. Accordingly, Appellant respectfully submits that Claim 12 is not rendered obvious over Chen in view of Klowak as evidenced by Swoboda. MPEP 2143.03.

iv. Claim 13

Claim 13 is rejected by the Examiner under 35 USC §103(a) as allegedly defining obvious subject matter over Chen in view of Klowak as evidenced by Swoboda, all described above.

Appellant respectfully submits that Chen in view of Klowak as evidenced by Swoboda fails to teach each and every element of Claim 13 because Chen in view of Klowak as evidenced by Swoboda fails to teach a sanitary tissue product comprising a patterned wet laid differential density fibrous structure comprising latex on the surface of the fibrous structure wherein more than 50% of the latex is present on high density regions of the differential density fibrous structure wherein the fibrous structure exhibits a

Stretch at Peak Load, in any direction, of greater than about 10%. Accordingly, Appellant respectfully submits that Claim 13 is not rendered obvious over Chen in view of Klowak as evidenced by Swoboda. MPEP 2143.03.

v. Claim 14

Claim 14 is rejected by the Examiner under 35 USC §103(a) as allegedly defining obvious subject matter over Chen in view of Klowak as evidenced by Swoboda, all described above.

Appellant respectfully submits that Chen in view of Klowak as evidenced by Swoboda fails to teach each and every element of Claim 14 because Chen in view of Klowak as evidenced by Swoboda fails to teach a sanitary tissue product comprising a patterned wet laid differential density fibrous structure comprising latex on the surface of the fibrous structure wherein more than 50% of the latex is present on high density regions of the differential density fibrous structure wherein the fibrous structure exhibits a sheet caliper of at least about 20 mils. Accordingly, Appellant respectfully submits that Claim 14 is not rendered obvious over Chen in view of Klowak as evidenced by Swoboda. MPEP 2143.03.

vi. Claim 15

Claim 15 is rejected by the Examiner under 35 USC §103(a) as allegedly defining obvious subject matter over Chen in view of Klowak as evidenced by Swoboda, all described above.

Appellant respectfully submits that Chen in view of Klowak as evidenced by Swoboda fails to teach each and every element of Claim 15 because Chen in view of Klowak as evidenced by Swoboda fails to teach a sanitary tissue product comprising a patterned wet laid differential density fibrous structure comprising latex on the surface of the fibrous structure wherein more than 50% of the latex is present on high density regions of the differential density fibrous structure wherein the fibrous structure exhibits a wet burst of at least about 100 g. Accordingly, Appellant respectfully submits that Claim 15 is not rendered obvious over Chen in view of Klowak as evidenced by Swoboda. MPEP 2143.03.

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SUMMARY

In view of all of the above, it is respectfully submitted that Claims 1, 5, 7, and 12-15, are allowable over the cited prior art.

Respectfully submitted,  
THE PROCTER & GAMBLE COMPANY

By /C. Brant Cook/

Signature

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## CLAIMS APPENDIX

1. A sanitary tissue product in roll form comprising a patterned wet laid differential density fibrous structure comprising a first surface and a second surface comprising regions of high and low density relative to each other, wherein latex that exhibits a Tg of from about -65°C to about 100°C is present on at least one of the first and second surfaces of the fibrous structure, wherein more than 50% of the total latex present is present on the regions of high density of the differential density fibrous structure, wherein at least one of the first and second surfaces comprises a pattern of embossments in a desired design, wherein one of the first and second surfaces exhibits a deformation height of at least about 1000  $\mu\text{m}$  and the other surface exhibits a deformation height of at least about 650  $\mu\text{m}$  and wherein the sanitary tissue product exhibits an average effective caliper that is greater than the average sheet caliper of an identical sanitary tissue product in its non-patterned form.
5. The sanitary tissue product according to Claim 1 wherein the latex is a natural and/or synthetic latex.
7. The sanitary tissue product according to Claim 5 wherein the latex is a synthetic latex selected from the group consisting of vinyl acetates, ethylene-vinyl acetate copolymers, acrylate copolymers, styrene butadiene copolymers and mixtures thereof.
12. The sanitary tissue product according to Claim 1 wherein the fibrous structure exhibits an HFS absorbency of greater than about 8 g/g.
13. The sanitary tissue product according to Claim 1 wherein the fibrous structure exhibits a Stretch at Peak Load, in any direction, of greater than about 10%.
14. The sanitary tissue product according to Claim 1 wherein the fibrous structure exhibits a sheet caliper of at least about 20 mils.



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15. The sanitary tissue product according to Claim 1 wherein the fibrous structure exhibits a wet burst of at least about 100 g.

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## EVIDENCE APPENDIX

None

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#### RELATED PROCEEDINGS APPENDIX

An Appeal Brief is concurrently being filed in related application 11/105,998.